

HOUSE BILL 2541
By Overbey

AN ACT to amend Tennessee Code Annotated, Title 50,
Chapter 6, relative to workers' compensation.

WHEREAS, since the Tennessee department of labor and workforce development has adopted a "Fraud Free Workplace Policy" for its employment security administration, it is appropriate to expand this concept to include workers' compensation administration as well; and

WHEREAS, the department has an existing workers' compensation fraud unit; and

WHEREAS, The department is responsible for receiving and investigating reports of fraud; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated Title 50, Chapter 6, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section 50-6-135.

(a) Any evidence of fraud determined by a workers' compensation specialist in a case will be submitted to the fraud section of the workers' compensation division.

(b) The commissioner of labor and workforce development will by rule add the following section to the matters that specialists are to consider in evaluating a request for benefit review conference: "Any evidence of fraud by any party in a case."

(c) The fraud section will submit a report to the commissioner of labor and workforce development and/or the commissioner of commerce and insurance on all cases involving alleged fraud. The report will also include information on fraud reported to the section independent of the benefit review process. This information will be summarized annually and submitted to the workers' compensation advisory council, the house consumer and employee affairs committee, the senate commerce labor and

agriculture committee, and the special joint committee of the general assembly on workers' compensation by February 1 of each year.

SECTION 2. Tennessee Code Annotated, Section 50-6-102(13), is amended by deleting the item in its entirety and substituting the following:

(13) "Injury" and "personal injury" means either "occupational injury" or "occupational disease" as defined herein.

(A) "Occupational injury" means an injury which arises out of and in the course of the particular trade, occupation, process, or employment in which the employee is exposed to such injury and which meets the following elements:

(i) A direct causal connection exists between the conditions under which the work is performed and the injury;

(ii) The injury arose as a natural incident of exposure by reason of the employment and is substantiated by an overwhelming preponderance of the evidence;

(iii) The injury is of such character that the employee would not have had substantial exposure to the injury outside of the employment;

(iv) The injury must have originated from a risk connected with distinctive conditions of the employee's particular employment and that risk was the proximate cause of the injury; and

(v) The objective medical evidence supporting the occupational injury must be based on reliable scientific principles sufficiently established in the medical community to have gained general acceptance.

(B) "Occupational disease" means a disease or infection which arises out of and in the course of the particular trade, occupation, process, or employment

in which the employee is exposed to such disease and which meets the following elements:

(i) A direct causal connection exists between the conditions under which the work is performed and the disease;

(ii) The disease arose as a natural incident of exposure by reason of the employment and is substantiated by an overwhelming preponderance of the evidence;

(iii) The disease is of such character that the employee would not have had substantial exposure to the disease outside of the employment;

(iv) The disease is not an ordinary disease of life to which the general public is exposed;

(v) The disease must have originated from a risk connected with distinctive conditions of the employee's particular employment and that risk was the proximate cause of the disease; and

(vi) The objective medical evidence supporting the occupational disease must be based on reliable scientific principles sufficiently established in the medical community to have gained general acceptance.

SECTION 3. This act shall take effect July 1, 2005, the public welfare requiring it.